Oregon

DEPARTMENT OF
TRANSPORTATION

Region 5

FILE CODE:

October 3, 1996

Joe Gartliz, City Administrator
City of Elgin
P.O. Box 128
Elgin, Oregon 97827

Dear Joe:

RE: 1997 Special City Allotment Project Submittals

I am pleased to inform you that on October 1, 1996, the Manager of the Funds and Grants Management Unit, by delegated authority of the Oregon Transportation Commission, approved your proposed project for construction under the 1997 Special City Allotment Program. As you know, the SCA funding is limited to $25,000 for your project. Project costs which exceed this amount shall be the responsibility of the City.

I will be preparing a Special City Allotment Agreement for your project in the near future for the City's review and approval. Until then, no other action by the City is necessary.

If you have any questions please don't hesitate to contact me at your convenience.

Sincerely,

Tom Carman
Region 5 Federal Aid Specialist

cc: file

3012 Island Ave.
La Grande, OR 97850
(503) 963-3177
FAX (503) 963-9079

Oregon

DEPARTMENT OF
TRANSPORTATION

Region 5
Right of Way Section

FILE CODE:

Date: December 18, 1996

Honorable Randy McKone
PO Box 128
Elgin, Or. 97827

Project: Improve Cedar Street

Dear : Mayor McKone

RE: Certification of Right of Way

I have noted on copies of the Special City Allotment Agreement that the City is responsible for acquisition of right of way for this project. There are requirements for the process of appraisal and acquisition of right of way and a certification form is required to assure such acquisition has been completed in accordance with Federal and State laws, rules, and regulations.

I have enclosed some explanatory information regarding certification. I have included an example of the certification form that you can enter into your word processor and prepare for all your projects that are either Federal and State funded. I have included a binder that I have prepared to assist Local Public Agencies in their right of way efforts.

Please read the attachment regarding certifications that helps make clear the reasons for and the need to process timely in order to allow required reviews to be accomplished.

Please contact me if you have any concerns.

Respectfully,

George L. Bertels
Region 5 R/W Supervision (Interim)

cc: attachments & enclosures

3012 Island Avenue
La Grande, OR 97850
(503) 963-7552
FAX (503) 963-9079

CERTIFICATION FOR FEDERAL AID PROJECTS

RIGHT OF WAY ACQUISITIONS
RAILROAD WORK ACCOMMODATIONS
UTILITY RELOCATIONS

Recent changes in federal project review and oversight requirements have enabled States to assume a role of reviewer and overseer for many types of projects, where Federal Highway Administration used to perform such review and oversight. These projects are referred to as exempt, as in exempt from federal review. They are sometimes called self-certified projects because States will still conduct review and oversight of the work.

For larger federal aid projects, review by Federal Highway Administration is still required, and these projects are referred to as non-exempt. Some of the timing and certification requirements change depending on whether the project is exempt or non-exempt.

The purpose of the above certification is to assure that proper coordination and accommodation of right of way, railroad, or utility work will have taken place before time of physical construction, so unnecessary delays, or costs caused by delays, will not be incurred during construction.

> 23 CFR 635.307(a) The right of way clearance, utility, and railroad work are to be so coordinated with the physical construction that no unnecessary delay or

cost for the physical construction will occur.

It is understandable that these certifications and any exceptions contained therein need to be declared at the time projects are being advertised for bids, because the contractor must know the condition of the job site at the time of construction in order to produce a responsible bid.

Keep in mind that certification about what condition the right of way will be at time of contract award is sometimes much different than what the condition was at the time certification was written. Also keep in mind that award date is later than letting date. It is important to make this distinction so that exceptions are not overstated or misinterpreted by others. A certificate should state what the condition of the right of way will be at the time the contractor signs the contract. Anything not in possession, or with no right of entry, at that time will be an exception.

For non-exempt federal aid projects, Federal Highway Administration authorizes ODOT to advertise for bids as soon as a number of conditions have been met, or declarations made. For exempt federal aid projects, FHWA has ODOT's assurance that all the same steps will be followed, and ODOT is responsible to make sure the same conditions have been met and declarations made.

In brief, certifications are either declarations that all right of way clearance, railroad, and utility work has been completed, or declarations of exceptions and that all necessary arrangements have been made for the exceptions to be undertaken and completed for proper coordination with the physical construction schedule of the project.

The above certification requirements apply to both exempt and non-exempt federal aid projects, as well as all Local Agency projects using federal funds.

FINANCIAL SERVICES FUNDS & GRANTS ADMINISTRATION

In order to obtain authorization for ODOT to advertise for a non-exempt construction project, Funds & Grants Administration sends a request to advertise letter to FHWA, along with the plans, specifications and estimate

pack, and fund obligation. Ideally, the authorization request letter and other submittals are due at FHWA three weeks before the advertisement date. This allows FHWA time to review and approve all submittals. In this project submittal pack is the certification from Right Of Way as to the condition of right of way as of the time the contract will be awarded.

For exempt federal aid projects there is still a need to submit information to FHWA, but the turnaround period is shorter. Submittals are due at FHWA one week before the advertisement date. The certification from Right of Way does not go to FHWA on exempt projects.

RIGHT OF WAY SECTION

For non-exempt projects, a right of way acquisition certification needs to go to Funds & Grants Administration early enough to allow them to prepare their submittals and incorporate any right of way certification information. One week is requested. Region offices sent their certificate to R/W Project Administration, and it will be forwarded.

For exempt projects the right of way certification is still required, and it is to be sent to R/W Project Administration also. The same one week is requested for ODOT review.

It is the responsibility of the Region Right of Way office to coordinate submittal of certifications for Local Public Agency projects. When the Region office does the right of way work on behalf of the LPA the certification is done by the Region office. When the LPA or its consultant perform acquisition work, the LPA must do a certificate and submit it to the Region Right of Way office, where it is then routed as usual. Please note that LPA project certification (regardless of who does the work) requires some statistical data to be entered on the form to conform to the annual FHWA statistical report.

PLANS, SPECIFICATIONS & ESTIMATES (of costs)

The plans, specifications and estimates for a construction contract are usually completed 3 to 4 weeks before the advertisement date. On non-exempt projects this allows FHWA time for review and approval in advance of the advertisement date.

For exempt projects, two weeks between completion and advertisement date is preferred, thereby allowing time for ODOT review.

EXCEPTIONS AND COORDINATING INFORMATION

If there are properties on a project where possession is anticipated after the contract award date, those properties must be listed as exceptions in the certification, along with the date planned for possession. A statement of why these exceptions are in the public interest must accompany the certification. It is the Region Right of Way responsibility, in conjunction with Project Development Team, to write the justification.

In addition to having to send the certification to R/W Project Administration, copies of certifications with exceptions must be sent from Region to Specifications as soon as they are written to enable that information to be included in the bid proposal pack.

Because PS&E completion and right of way certification occur at about the same time, it is very important that specification writers receive right of way exception information at least one week prior to their PS&E completion date to help avoid plan errors, changes and rewriting of specifications. Often it is very helpful to provide sketches and cost information that can be used in the specifications when the construction contractor will be required to complete unfinished right of way clearance (demolition's).

TIMING OF CERTIFICATE COMPLETION

Advertisement dates usually precede contract letting dates 3 to 6 weeks for both exempt and non-exempt projects, depending on the size of the project. On some rare and very complex projects the advertisement may run

7 weeks. The following is a general guide, therefore always check to be sure how long the ad will run.

Contracts advertisement	$0 to $5 million	= 3 week
	$5 to $10 M.	= 4 week
	$10 to $15 M.	= 5 week
	> $15	= 6 week
	very complex	= 7 week

Add to the above span any time needed by Funds & Grants Administration to get their request letter for authorization and PS&E submittal sent to FHWA for review and approval. For non-exempt jobs that is 3 weeks. For exempt jobs it is 1 week.

Add to the above time the 1 week to send the certification to R/W Project Administration to coordinate with Funds & Grants Administration for their incorporation of any right of way information into their submittals to FHWA on non-exempt jobs. This is also the time to send any exception information to Specifications.

On non-exempt projects this equates to having right of way certifications prepared and sent to R/W Project Administration 4 weeks prior to the planned advertisement date.

For exempt projects, send the certification to R/W Project Administration 2 weeks prior to the advertisement date.

Advertisement dates may be from 3 to 7 weeks prior to the construction contract letting date. Contact Specifications Unit or your region for planned advertisement dates on projects.

On the date that the certification is written and submitted, the certificate does not have to reflect the condition of the right of way acquisitions on that date, but rather what the acquisitions will be on the date of contract award (which is about 2 weeks after contract letting). This is an important concept. To not follow it will result in overstatement of exceptions in those cases where right of way acquisition is running later than the certification submission date.

Sometimes, for various, good reasons right of way will not be completed prior to awarding of the contract. In such cases, the R/W Supervisor or the R/W Project Manager needs to coordinate with R/W Project Administration, Region PDTM, Funds & Grants Management, and Specifications and discuss whether or not it is in the public interest to proceed to contract with the exceptions. These discussions will help determine what measures and understandings will be needed either to allow the project to meet its contract letting date, or to delay the advertisement and letting dates until the exceptions are resolved.

Oregon Department of Transportation

RIGHT-OF-WAY CERTIFICATION

Bid Opening _____

FAP No. _____

Section

Highway

County

I certify that to the best of my knowledge the following statements are correct with regard to the right-of-way for this project (23 CFR 635.309):

No additional right-of-way was acquired. Construction can be accomplished within the existing right-of-way.

OR

I certify that to the best of my knowledge the following statements are correct with regard to the right-of-way for this project (23 CFR 635.309):

Right-of-way was acquired in accordance with directives set forth in Federal Highway Administration rules and policies. The State has legal and physical possession of all right-of-way.

There are no individuals or families to be displaced from residential improvements.

OR

I certify that to the best of my knowledge the following statements are correct with regard to the right-of-way for this project (23 CFR 635.309):

Right-of-way was acquired in accordance with directives set forth in Federal Highway Administration rules and policies. The State has legal and physical possession of all right-of-way. Occupants have vacated all residential, commercial, and farm buildings.

All individuals and families have been relocated to decent, safe and sanitary housing in accordance with the provisions set forth in Federal Highway Administration rules and policies.

EXCEPTIONS TO CERTIFICATION: (explain in detail which properties will not be cleared by time of contract award date, and what the date will be when possession will occur).

PUBLIC INTEREST STATEMENT (if there are exceptions, explain why it is in the public interest to proceed with this project at this time).

HAZARDOUS MATERIALS: No known hazardous materials exist.

OR

HAZARDOUS MATERIALS: Required remedial actions pertaining to known hazardous materials have been taken and will not interfere with construction.

OR

HAZARDOUS MATERIALS: (explain the situation if it is different than above).

_____

Region R/W Supervisor or Local Government Agency

FOR LOCAL GOVERNMENT AGENCY FEDERALLY FUNDED PROJECT

voluntarily by court deposit

Number of R/W Properties Acquired; with Federal Funds _____ _____

Amount Paid for Properties Purchased; with Federal Funds _____ _____

Number of R/W Properties Acquired; no Federal Funds _____ _____

Amount Paid for Properties Purchased; no Federal Funds _____ _____

Number of Properties Involving Relocations _____

Non-exempt federal aid projects
Original: R/W Project Administration, fwd Financial Services, Grants & Funds Administration
Copy: Specifications (for any certifications with exceptions)

Exempt federal aid projects
Original: R/W Project Administration
Copy: Specifications (for any certifications with exceptions)

STATE OF OREGON **INTEROFFICE**

MEMO

Right of Way
Phone: (503) 986-3658

DATE:

TO: Don Aman
Financial Services Funds & Grants

FROM: Matthew C. Caswell, PE
Railroad & Utility Engineer

SUBJECT: **Railroad Certification & Status Report**
Section
Highway
County

I certify to the best of my knowledge that the following statements, as checked, are correct in regard to railroad negotiations on this project.

EASEMENTS OR RIGHT-OF-WAY

_____ No additional easements or right-of-way required from Railroads.
_____ Easement or right-of-way received from Railroad.
_____ Advance Permit of Entry received from Railroad.

WORK TO BE DONE BY RAILROAD

_____ No work is to be done by Railroad.
_____ Work by Railroad is estimated to cost $ _____

PROTECTIVE COSTS BY RAILROAD

_____ We will not have to reimburse Railroad for protective costs incurred.
_____ We will have to reimburse Railroad for protective costs incurred.
Estimated cost is $ _____

RAILROAD PROTECTIVE INSURANCE

_____ Our Contractor will not have to carry railroad protective insurance.
_____ Our Contractor will be required to carry railroad protective insurance.

I know of no reason at this time why the Railroad's involvement will cause any problem to the letting of this contract.

cc: Roadway